

California Regional Water Quality Control Board
Santa Ana Region

May 27, 2005

ITEM NO. 7

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal Use – Richard and Rachel Lopez, 6597 Lucretia Avenue, Mira Loma, Riverside County, APN 157-142-003-7

DISCUSSION:

On March 1, 2005, Richard Lopez contacted staff regarding the proposed conversion of a garage into a second dwelling unit on their lot located at 6597 Lucretia Avenue in Mira Loma. Mr. & Mrs. Lopez reside in a 3-bedroom, 1.75-bath home at the site. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the house. The gross size of the lot is slightly less than one acre (39,649 sq. ft or 0.91 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. & Mrs. Lopez propose to add a second septic tank-subsurface disposal system for the discharge of sanitary wastes from this second dwelling unit. This second home will be utilized by Mr. & Mrs. Lopez' daughter.

On October 13, 1989, the Regional Board adopted Resolution No. 89-157, which requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems in the groundwater of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that it was necessary to distinguish between "existing" developments using subsurface disposal systems (i.e., those already in place or approved at the time the MLSRs were adopted), and "new" developments. The Board specifically exempted from the one-half acre requirement existing developments where septic tank-subsurface disposal systems had been installed by September 7, 1989, or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. The one-half acre requirement applies only to "new" developments.

The Board also recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. The MLSRs distinguish between the types of additions to existing dwelling units. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that any proposal to add a freestanding structure that would result in additional wastewater flows must be considered a "new" development, subject to the MLSRs. The proposed second dwelling unit at the Lopez property would be a freestanding structure. As

such, the project as a whole (the existing home and the second dwelling/garage conversion) must now be considered a “new” development to which the one-half acre minimum lot size requirement applies.

The intent of distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single-family residence on the property, which would result in substantial additional wastewater flows. Mr. & Mrs. Lopez propose to convert an existing free standing garage into a residence for the use of their daughter.

Mr. & Mrs. Lopez’ lot is slightly less than one acre in size (3,911 sq. ft short) and, therefore, staff was required to deny the request for a clearance for the project. Mr. Lopez was advised of another option identified in the Board’s exemption criteria, which allows project proponents to implement an acceptable offset. Mr. & Mrs. Lopez could proceed with their proposed development if they connected another septic system (that would not otherwise be required to be connected to the sewer) to the sewer. Mr. Lopez states that he has tried to pursue the offset program by locating homeowners who could eliminate their septic systems; however, he indicates that he has been unable to locate a potential homeowner with whom to enter into an agreement.

RECOMMENDATION:

Approve Mr. & Mrs. Lopez’ request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157.

Comments were solicited from the following agencies:

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Environmental Health – Sam Martinez
Riverside County Building and Safety – Steve Dondalski
Riverside County Planning – Mark Balys